



**UNITED STATES DEPARTMENT OF COMMERCE  
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
08/587,448	12/01/95	HO KEUNG	T

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EXAMINER

LAUFER, P

ART UNIT	PAPER NUMBER
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3642

# 27

DATE MAILED: 03/18/98

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

**Advisory Action**

Application No.

08/587,448

Applicant(s)

Tse Ho Keung

Examiner 703 306 4160

Pinchus M. Laufer

Group Art Unit

3642



## THE PERIOD FOR RESPONSE: [check only a) or b)]

- a) ☐ expires \_\_\_\_\_ months from the mailing date of the final rejection.
- b) ☒ expires either three months from the mailing date of the final rejection, or on the mailing date of this Advisory Action, whichever is later. In no event, however, will the statutory period for the response expire later than six months from the date of the final rejection.

Any extension of time must be obtained by filing a petition under 37 CFR 1.136(a), the proposed response and the appropriate fee. The date on which the response, the petition, and the fee have been filed is the date of the response and also the date for the purposes of determining the period of extension and the corresponding amount of the fee. Any extension fee pursuant to 37 CFR 1.17 will be calculated from the date of the originally set shortened statutory period for response or as set forth in b) above.

- ☐ Appellant's Brief is due two months from the date of the Notice of Appeal filed on \_\_\_\_\_ (or within any period for response set forth above, whichever is later). See 37 CFR 1.191(d) and 37 CFR 1.192(a).

Applicant's response to the final rejection, filed on Nov 3, 1997 has been considered with the following effect, but is NOT deemed to place the application in condition for allowance:

☒ The proposed amendment(s):

- ☐ will be entered upon filing of a Notice of Appeal and an Appeal Brief.
- ☒ will not be entered because:
- ☒ they raise new issues that would require further consideration and/or search. (See note below).
  - ☐ they raise the issue of new matter. (See note below).
  - ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal.
  - ☐ they present additional claims without cancelling a corresponding number of finally rejected claims.

NOTE: The additional limitations in claim 1 (for example, at lines 7-8 and 19-21) and claim 12 (for example, lines 14-16 and 25-26) would require further consideration.

- ☐ Applicant's response has overcome the following rejection(s):

- ☐ Newly proposed or amended claims \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment cancelling the non-allowable claims.
- ☐ The affidavit, exhibit or request for reconsideration has been considered but does NOT place the application in condition for allowance because:

- ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.

- ☒ For purposes of Appeal, the status of the claims is as follows (see attached written explanation, if any):

Claims allowed: \_\_\_\_\_

Claims objected to: \_\_\_\_\_

Claims rejected: 1-7 and 9-21

- ☐ The proposed drawing correction filed on \_\_\_\_\_ ☐ has ☐ has not been approved by the Examiner.
- ☐ Note the attached Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_
- ☒ Other The amendments dated 13 February and 17 February are addressed in the attached action.

### **Amendment of 3 November 1997**

1. Applicant's fax dated 13 March 1998 (and the letter dated 10 February 1998 referred to therein) points out that no response to the proposed amendment of 3 November 1997 was received. Applicant requests a response to this submission.
2. The submission was previously considered as a proposal not intended for entry because of the following circumstances:
  - (1) The submission says that the Applicant will telephone to discuss the "proposed" amendment.
  - (2) Applicant followed this with a phone message indicating that he would not have time to conduct a phone interview and would file a written response.
3. In light of the request for a response contained in the letter dated 10 February 1998, it appears that not treating the 3 November 1997 submission as formal was a misunderstanding, and that Applicant desired the 3 November 1997 submission to be treated as a formal amendment.
4. Consequently, the Examiner has now treated the submission of 3 November 1997 as an Amendment after Final, considered it, and responded accordingly.
5. As indicated on the Advisory action the Amendment was not approved for entry (and will not be entered upon filing a notice of appeal) because the amendments to the independent claims would require further consideration and search.

### **Amendments of 13 and 17 February 1998**

6. Based on the treatment of the 3 November 1997 submission as a formal amendment, the Amendments after final dated 13 February 1998 and 17 February 1998 have also been considered.

### **Amendment of 13 February 1998**

7. The proposed amendment will not be entered because:
  - a. They raise new issues that would require further consideration and search (see Note 1)and
  - b. they raise issues of new matter. (see Note 1)

Note 1: The amendments to the claims (1, 12, and 17) have changed the scope of the claims by way of the additional limitations in each of the claims; and the substitute specification must be carefully analyzed and compared to the original to determine whether it contains new matter.

### **Amendment of 17 February 1998**

8. The proposed amendment will not be entered because:
- a. They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal. (see Note 2)

Note 2: (1) The amendment does not deal with the current state of the claims (the amendment dated 2-10-98 was not entered.) (2) The amendment does not use brackets and underlining for amending the claims as required by rule 1.121b.

The examiner notes that precisely this problem was brought to Applicant's attention in the Advisory action of 2 January 1998 in response to the amendment of 18 December 1997.

### **Status of the Claims**

9. For purposes of Appeal, the status of the claims is as follows:

Claims Allowed: None

Claims Rejected: 1-7 and 9-21

### ***Information Regarding Communication with the PTO***

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Pinchus M. Laufer whose telephone number is (703) 306-4160. The examiner can normally be reached on weekdays from 8:00 am to 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. T. Tarcza, can be reached on (703) 306-4171. The fax phone number for this Group is (703) 306-4195.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 306-4177.

Pinchus M. Laufer  
March 17, 1998

PML



THOMAS H. TARCZA  
SUPERVISORY PATENT EXAMINER  
GROUP 2200